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8 Attorneys for Defendant
9 MARCO ANTONIO TOPETE

FILED
YOLO SUPERIOR COURT

SEP 11 2009
By  Deputy

10
11 **YOLO COUNTY SUPERIOR COURT**
12 **STATE OF CALIFORNIA**

13 **PEOPLE OF THE STATE OF**
14 **CALIFORNIA,**

15 Plaintiff,

16 vs.

17 **MARCO ANTONIO TOPETE,**

18 Defendant(s).


Case no. CR08-3355

**NOTICE OF MOTION AND MOTION
TO ENFORCE PRIOR ORDERS AND
LOCAL RULES OF COURT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: November 6, 2009
Time: 8:30 a.m.
Department: 9

21 PLEASE TAKE NOTICE that on the date and at the time and department set forth above, the
22 defendant, MARCO ANTONIO TOPETE, will move the Court to enforce prior order and local
23 rules of court, as set forth below. This motion is based on this notice, the authorities cited herein, all
24 papers and records in this action, evidence adduced at the hearing of this motion, and argument of
25 counsel.

26 Dated: September 9, 2009

27 
HAYES H. GABLE, III
THOMAS A. PURTELL
Attorney for Defendant
28 MARCO ANTONIO TOPETE

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

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3 On June 26, 2008, Hon. David A. Rosenberg, presiding judge of the Yolo County Superior
4 Court, issued two orders directed to the Yolo County Sheriff's Office, or its designee, to permit the
5 defendant to wear civilian clothing at all pretrial hearings and proceedings and to appear at all
6 pretrial hearings and proceedings without restraints, effective June 26, 2008, subject to further order
7 of the court. Certified copies of those orders are attached hereto as Exhibits A and B, respectively.
8 Neither order has been modified to date.

9 At the last appearance in court, on August 28, 2009, the defendant appeared in civilian
10 clothes, but in restraints. When counsel requested that the defendant appear in civilian clothing and
11 without restraints, pursuant to the previously issued orders, the prosecution objected, asserting that
12 counsel should file a motion to which they might respond. Thus, this motion is filed.

13 In addition, defendant requests that this court enforce Yolo County Superior Court Local
14 Rule 4.5, subdivision (c), which provides:

15 No person present at a court proceeding may display any buttons,
16 flags, signs, images or otherwise that might prejudice the court or jury
17 or undermine the security or decorum of the proceeding. The bailiff on
18 duty, under the supervision of the Judge, shall have the authority to
enforce these rules. Attached as part of these Rules is a standing Order
of the Yolo Superior Court, effective May 27, 2005, prohibiting such
displays in a courtroom.

19
20 The standing order referenced in Rule 4.5 is found at Appendix 2 of the Rules, and reads as
21 follows:

22 No person present at a court proceeding may display buttons, images
23 or other visual indicators of the victim or anyone else involved in the
proceeding that, in light of the particular facts and issues before the
jury or court, might cause a reasonable risk of prejudicing a jury.

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25 Accordingly, it is requested that this court enforce the pre-existing orders in this action as
26 well as Local Rule 4.5, subdivision (b) and the standing order of the court set forth in Appendix 2 of


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the Local Rules of Court.
Dated: September 9, 2009

Respectfully submitted,



HAYES H. GABLE, III
THOMAS A. PURTELL
Attorneys for Defendant
MARCO ANTONIO TOPETE

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13 Attorneys for Defendant, Marco Antonio Topete

14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF YOLO

16 THE PEOPLE OF THE STATE
17 OF CALIFORNIA,

18 Plaintiff,

19 vs.

20 MARCO ANTONIO TOPETE,

21 Defendant.
22 _____/

Case No. 08-3355

EXHIBIT A OF NOTICE OF
MOTION AND MOTION TO SET
ASIDE CIRCUMSTANCE C OF
COUNT 1 AND COUNT 5 OF THE
INDICTMENT
[Penal Code §995]

23 /////

24 /////

25 /////

YOLO SUPERIOR COURT

BARRY MELTON, YOLO COUNTY PUBLIC DEFENDER

814 NORTH STREET
YOLO COUNTY, CA 95695

JUN 26 2008

By M. P. Olson Deputy

YOLO COUNTY PUBLIC DEFENDER'S OFFICE
DEAN JOHANSSON
Deputy Public Defender
State Bar No: 176301
TRACIE OLSON
Chief Deputy Public Defender
State Bar No.: 191651
814 North Street
Woodland, CA 95695
Telephone: (530) 666-8165

Attorneys for Defendant

CERTIFIED COPY

FILED
YOLO SUPERIOR
COURTS

JUN 26 '08

H. Salimon

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF YOLO

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

MARCO ANTONIO TOPETE,

Defendant.

Case No. CR08-3355

~~PROPOSED~~ ORDER ALLOWING
DEFENDANT TO WEAR CIVILIAN
CLOTHING TO COURT
(#2A)

Date: June 26, 2008

Time: 3-

Dept.: 7

ORDER

The Yolo County Sheriff's Office, or its designee, will permit Marco Antonio Topete, defendant in the above-entitled action, to wear civilian clothing at all pre-trial hearings and proceedings, effective today, subject to further order of the Court.

IT IS SO ORDERED:

DATED: 6-26-08

[Signature]
Judge of The Superior Court of Yolo County

1 HAYES H. GABLE, III (SBN 60368)
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9 Attorneys for Defendant, Marco Antonio Topete

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11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 IN AND FOR THE COUNTY OF YOLO

13
14 THE PEOPLE OF THE STATE
OF CALIFORNIA,

15 Plaintiff,

16
17 vs.

18 MARCO ANTONIO TOPETE,

19 Defendant.
20 _____/

Case No. 08-3355

EXHIBIT B OF NOTICE OF
MOTION AND MOTION TO SET
ASIDE CIRCUMSTANCE C OF
COUNT 1 AND COUNT 5 OF THE
INDICTMENT
[Penal Code §995]

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23 ////

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CERTIFIED COPY

YOLO COUNTY PUBLIC DEFENDER'S OFFICE
DEAN JOHANSSON
Deputy Public Defender
State Bar No: 176301
TRACIE OLSON
Chief Deputy Public Defender
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Attorneys for Defendant

FILED
YOLO SUPERIOR
COURTS

JUN 26 '08

H. Balman
Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF YOLO

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

MARCO ANTONIO TOPETE,

Defendant.

Case No. CR08-3355

~~PROPOSED~~ ORDER ALLOWING
DEFENDANT TO APPEAR IN
COURT WITHOUT RESTRAINTS
(#3A)

Date: June 26, 2008

Time: 3 -

Dept.: 7

ORDER

The Yolo County Sheriff's Office, or its designee, will permit Marco Antonio Topete, defendant in the above-entitled action, to appear at all pre-trial hearings and proceedings without restraints, effective today, *subject to further order of the Court.*

IT IS SO ORDERED:

DATED: *6-26-08*

[Signature]
Judge of The Superior Court of Yolo County

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Yolo. I am over the age of eighteen years and not a party to the above-entitled action; my business address is 430 Third Street, Woodland, CA 95695

On the date below, I served the following document(s):

**NOTICE OF MOTION AND MOTION TO ENFORCE PRIOR ORDERS AND
LOCAL RULES OF COURT; MEMORANDUM OF POINTS AND
AUTHORITIES**

() BY MAIL. I caused such envelope, with postage thereon fully prepaid, to be placed in the United States Mail at Sacramento, California addressed as follows:

(X) BY PERSONAL SERVICE. I caused such document(s) to be delivered by hand to the offices of the person(s) listed below:


JEFF REISIG
GARRET HAMILTON
Yolo County District Attorney
301 Second Street
Woodland, CA 95695

() BY FACSIMILE SERVICE. I caused the document(s) to be served via facsimile to the person(s) listed below:

() BY EMAIL ATTACHMENT. I caused the document(s) to be served via email as an attachment to the person(s) listed below:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 11, 2009, at Woodland, California.



Declarant